1 DANIEL BOGDEN United States Attorney 2 CRISTINA D. SILVA Assistant United States Attorney 3 333 Las Vegas Blvd. South, Suite 5000 Las Vegas, Nevada 89101 4 PHONE: (702) 388-6336 FAX: (702) 388-6418 5 UNITED STATES DISTRICT COURT 6 DISTRICT OF NEVADA 7 -000-8 UNITED STATES OF AMERICA, 2:12-CR-00079-JCM-PAL 9 Plaintiff, STIPULATION TO CONTINUE **EVIDENTIARY HEARING ON** 10 MOTION TO SUPPRESS FOR VS. FOURTH AMENDMENT 11 IGNACIO DeALBA, VIOLATIONS (Dkt. #44) 12 Defendant. 13 IT IS HEREBY STIPULATED AND AGREED, by and between DANIEL G. BOGDEN, 14 United States Attorney, and Cristina D. Silva, Assistant United States Attorney, counsel for the 15 United States of America, and Rebecca Levy, Assisstant Federal Public Defender, counsel for 16 defendant IGNACIO DeALBA, that evidentiary hearing on defendant's Motion to Suppress for 17 Fourth Amendment Violations (Dkt. #44) in the above-captioned matter, which is currently set for 18 March 5, 2013, be vacated and continued to a date and time to be set by this Court, for any time after 19 March 8, 2013. 20 This Stipulation is entered into for the following reasons: 21 The evidentiary hearing on the motion was previously reset. Government counsel 1. 22 realized that she will be out of the District during the new date and time set for the evidentiary 23 hearing. Government counsel will not be back in the District until March 6, 2013. However, 24

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1	Government counsel has evidentiary hearings on motions to suppress currently scheduled in <i>United</i>
2	States v. Fehrman (2:12-cr-00252-JCM-VCF) on March 7, 2013, and another motion to suppress in
3	United States v. Brown (2:11-cr-00334-MMD-GWF) on March 8, 2013. While it is likely one or
4	more of the motions may be continued, in an abundance of caution the Government is requesting the
5	hearing in this case be reset for after March 8, 2013.
6	2. Defense counsel does not have an objection to a brief continuance.
7	3. The defendant is incarcerated, but does not object to the continuance.
8	4. Additionally, denial of this request for continuance could result in a miscarriage of
9	justice.
10	5. The additional time requested herein is not sought for purposes of delay, but to allow
11	for the availability of Government counsel.
12	DATED this 22 day of February, 2013.
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14	DANIEL G. BOGDEN United States Attorney
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16	 CRISTINA D. SILVA
17	Assistant United States Attorney
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19	<u>//s//</u> REBECCA LEVY,
20	Assistant Federal Public Defender Counsel for Defendant - DeALBA
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1 UNITED STATES DISTRICT COURT **DISTRICT OF NEVADA** 2 -000-3 4 UNITED STATES OF AMERICA, 2:12-CR-00079-JCM-PAL 5 Plaintiff, FINDINGS OF FACT AND 6 CONCLUSIONS OF LAW VS. 7 IGNACIO DeALBA, 8 Defendant. 9 10 FINDINGS OF FACT Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court 11 hereby finds that: 12 1. That the evidentiary hearing on the motion was previously reset. That Government 13 counsel realized that she will be out of the District during the new date and time set for the 14 evidentiary hearing. Further, that Government counsel will not be back in the District until March 6, 15 2013. However, Government counsel has evidentiary hearings on motions to suppress currently 16 scheduled in *United States v. Fehrman* (2:12-cr-00252-JCM-VCF) on March 7, 2013, and another 17 motion to suppress in *United States v. Brown* (2:11-cr-00334-MMD-GWF) on March 8, 2013. That 18 while it is likely one or more of the motions may be continued, in an abundance of caution the 19 Government is requesting the hearing in this case be reset for after March 8, 2013. 20 2. That Defense counsel does not have an objection to a brief continuance. 21 3. That the defendant is incarcerated, but does not object to the continuance. 22 Additionally, that denial of this request for continuance could result in a miscarriage 23 4.

of justice.

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1	5. That the additional time requested herein is not sought for purposes of delay, but to
2	allow for the availability of Government counsel.
3	7. That this is the <u>second</u> request for a continuance of the evidentiary hearing.
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5	CONCLUSIONS OF LAW
6	Based on the fact that the parties have agreed to the continuance; based on the fact that the
7	defendants does not object to the continuance; and based on the fact that denial of this request for
8	continuance could result in a miscarriage of justice, the Court hereby concludes that:
9	The ends of justice are served by granting said continuance, since the failure to grant said
10	continuance would be likely to result in a miscarriage of justice and would deny counsel for the
11	government the opportunity to call an essential witness, taking into account the exercise of due
12	diligence.
13	<u>ORDER</u>
14	IT IS THEREFORE ORDERED that the deadline for the evidentiary hearing on the <i>Motion</i>
15	to Suppress for Fourth Amendment Violations (Dkt. #44) in this matter, currently set for March 5,
16	2013, at 10:00 am is vacated and the same is continued and reset to,
17	2013 at _ 1:30pm in Courtroom #3B.
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19	THE HONORABLE PEGGY A. LEEN UNITED STATES MAGISTRATE JUDGE
20	UNITED STATES MADISTRATE JUDGE
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